LSM Management Co. *and* Local 32B, Service Employees International Union, AFL–CIO. Case AO–280

October 12, 1990

ADVISORY OPINION

BY CHAIRMAN STEPHENS AND MEMBERS CRACRAFT, DEVANEY, OVIATT, AND RAUDABAUGH

Pursuant to Sections 102.98(a) and 102.99 of the National Labor Relations Board's Rules and Regulations, on August 31, 1990, LSM Management Co. (the Employer) filed a petition for an advisory opinion as to whether the Board would assert jurisdiction over its operations.

In pertinent part the petition alleges as follows:

1. There is currently pending before the New York State Labor Relations Board (the SLRB) a representation petition, Case No. SE-57626, filed by Local 32B, Service Employees International Union, AFL–CIO (the Union).

2. The general nature of the Employer's business is real estate. The Employer manages and controls the residential premises located at 1901 Avenue N, Brooklyn, New York, which generates income in excess of $300,000 per year. Additionally, the Employer manages and controls a number of residential premises located in Queens, New York, including 73–20 Austin Street, Forest Hills, New York, which generates income in excess of $500,000 per year. The combined income exceeds $800,000 per year. The Employer's out-of-state oil purchases exceed $30,000 per year.

3. The Employer is unaware whether the Union admits or denies the aforesaid commerce data and the SLRB has made no findings with respect thereto.

4. There is no representation or unfair labor practice proceeding involving the same dispute pending before the Board.

Although all parties were served with a copy of the petition for advisory opinion, none filed a response as permitted by Section 102.101 of the Board's Rules and Regulations.

Having duly considered the matter, the Board is of the opinion that it would assert jurisdiction over the Employer. The Board has established a $500,000 discretionary standard for asserting jurisdiction over residential buildings.[1] As the petition alleges that the Employer receives over $800,000 in total annual income from the residential premises that it manages and controls,[2] the Employer clearly satisfies that standard.[3] As the petition further alleges that the Employers' annual out-of-state purchases exceed $30,000, the Employer also clearly satisfies the Board's statutory standard for asserting jurisdiction.

Accordingly, the parties are advised that, based on the foregoing allegations and assumptions, the Board would assert jurisdiction over the Employer.[4]

[1] See *Parkview Gardens*, 166 NLRB 697 (1967) (residential apartments), and *Imperial House Condominium*, 279 NLRB 1225 (1986), affd. 831 F.2d 999 (11th Cir. 1987) (condominiums and cooperatives). We assume that the ''residential premises'' referred to in the petition are one of these types of residential buildings.

[2] We assume that the Employer is a single employer with respect to these premises.

[3] The Board has traditionally aggregated the gross revenues derived from all residential buildings managed by an employer in determining whether the employer satisfies the Board's discretionary standard. See, e.g., *Mandel Management Co.*, 229 NLRB 1121 (1977).

[4] See *Allstate Realty Associates*, 294 NLRB 1101 (1989), and *1113 Holding Ltd.*, 291 NLRB 938 (1988). The Board's advisory opinion proceedings under Sec. 102.98(a) of the Board's Rules are designed primarily to determine whether an employer's operations meet the Board's ''commerce'' standards for asserting jurisdiction. Accordingly, the instant Advisory Opinion is not intended to express any view as to whether the Board would certify the Union as representative of the petitioned-for unit under Sec. 9(c) of the Act. See generally Sec. 101.40(e) of the Board's Rules.